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FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED

SPONSOR Rodella **HB** 1109

SHORT TITLE Public Safety Volunteer Retirement Act **SB** _____

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$500.0	Recurring	Law Enforcement Protection Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$500.0	\$500.0	Recurring	Public Safety Volunteer Retirement Fund
	(\$500.0)	(\$500.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$50.0		\$50.0	Non-Rec	PERA

(Parenthesis () Indicate Expenditure Decreases)

May conflict with HB 861 and SB 1023 (duplicate), SB 433

Relates to HJM 32 and SJM 26 (duplicate)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Department of Finance Administration (DFA)

Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

House Bill 1109 enacts the Public Safety Volunteer Retirement Act and appropriates \$500.0 thousand from the law enforcement protection fund to the created public safety volunteer retirement fund to provide retirement benefits. A public safety volunteer is defined as any non-salaried volunteer serving on the New Mexico Mounted Patrol or as a member of a volunteer program of a county sheriff's department or municipal police department.

FISCAL IMPLICATIONS

The appropriation of \$500.0 thousand contained in this bill is a recurring expense to the law enforcement protection fund. Any unexpended or unencumbered balance remaining at the end of FY08 does not revert to the law enforcement protection fund. The new fund is created in the State Treasury and consists of appropriations, transfers, gifts, grants, donations and bequests made to the fund.

HB 1109 also potentially impacts the general fund. Current language in Section 29-13-3 NMSA 1978 requires the State Treasurer to transfer any non-obligated balance in the law enforcement protection fund in excess of \$100.0 thousand to the general fund. HB 1109 amends this section by adding the \$500.0 thousand distribution for the public safety volunteer retirement plan to that threshold, thereby reducing the amount that would go to the general fund by \$500.0 thousand.

PERA states its operating budget will be negatively impacted by HB 1109. Adding a new retirement act to those already administered by PERA requires system changes to PERA's computerized pension administration system. Similar changes in the past have cost up to \$50.0 thousand. If further revisions to the system are necessary in FY08, PERA will be required to seek a Budget Adjustment Request to cover the costs of these system changes.

PERA will incur operating costs related to printing, postage and dissemination of information for statewide law enforcement agencies, including reporting procedures and forms.

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

The primary issue is whether to provide public safety volunteers with a retirement plan similar to volunteer firefighters. HB-1109 would create the following benefit levels for eligible public

safety volunteers:

<u>Age</u>	<u>Years of Service</u>	<u>Benefit Level</u>
55 or more	25 or more	\$200 per month for life
55 or more	at least 10, less than 25	\$100 per month for life

In the event a retirement annuitant dies, the surviving spouse shall receive an annuity equal to two-thirds of the retirement annuity being paid to the retirement annuitant at the time of death. The annuity shall cease upon the surviving spouse's marriage or death.

Retirement benefits are payable under the Public Safety Volunteer Retirement Act regardless of whether the annuitant is eligible for benefits under another state retirement system. A public service volunteer may begin to claim service credit for each year, beginning on or after January 1, 2007. An eligible member may also obtain up to 5 years of additional service credit filing prior to December 31, 2007.

The proposed Public Safety Volunteer Retirement Act is modeled after the Volunteer Firefighters Retirement Act, which is unlike any other PERA retirement plan in that it is not funded based upon contributions from salary. Public safety volunteers are not salaried employees and their "retirement benefits" will not derive from employment. Rather, the benefits will be provided by the Legislature and the source of funding to meet the Fund's statutory obligations is an annual appropriation of \$500.0 thousand from the law enforcement protection fund.

While HB 1109 does address the issue of creating a retirement fund for public safety volunteers similar to one established for volunteer firefighters, it affects a fund that potentially has added impact from other legislation posed during the session. If each of these bills is enacted, the fund may not be able to sustain the distributions and transfers that will be required. New legislation would be required to either increase revenues to the law enforcement protection fund or to revise and reconcile the various demands put on the fund.

No actuarial study was requested by the volunteer public safety group affected by this legislation. Without an actuarial study, PERA cannot determine whether the funding source proposed by HB 1109 is sufficient to comply with Article XX, Section 22(C) of the New Mexico Constitution, which states in relevant part, "The legislature shall not enact any law that increases the benefits paid by the system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided."

ADMINISTRATIVE IMPLICATIONS

Each respective law enforcement agency will be required to be accountable for the certification of each public service volunteer.

Although PERA cannot assess the precise administrative impact of this legislation because it does not presently have sufficient information regarding the number of potential participants, it is reasonable to assume that the administrative impact to PERA could be similar to the current requirements for the Volunteer Firefighter Retirement Plan, which are substantial.

PERA currently has three FTEs processing the Volunteer Firefighter Retirement Plan, dedicating approximately 1,000 hours on Volunteer Firefighters Retirement issues between December and April. Statewide, there are approximately 300 Volunteer Fire departments. Beginning in December, PERA staff prints member lists for each department, provides for detailed reporting forms, and sends out instructional correspondence. From January through March, volunteer fire departments report service credit on behalf of their members. PERA staff must verify service credit, contact the Volunteer Fire departments to address discrepancies and post service credit for each member into PERA's computerized pension administration system. New member form information also must be entered.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 1109 may conflict with HB 861 and SB 1023 (duplicate), which increase the actual distribution to all participating law enforcement agencies.

HB 1109 may conflict with SB 433, which amends the current supplemental death benefits that are paid out of the peace officers' survivors' fund, which is supplemented by the law enforcement fund.

HB 1109 relates to HJM 32 and SJM 26 (duplicate), which cite the difficulties in posting service credit and administering the Volunteer Firefighters Retirement Act, and request appointment of an interim committee to consider amendments to remedy problems that become identified by the interim committee.

TECHNICAL ISSUES

The public safety volunteer retirement fund is created in the state treasury, with an annual transfer of \$500.0 thousand on or before the last day of July. However, HB 1109 vests investment and administrative authority in the Public Employees Retirement Association (PERA), which creates a conflict. The State Treasurer is responsible for administering and investing funds in the treasury.

OTHER SUBSTANTIVE ISSUES

The current projection model utilized for this analysis considers the annual transfer of \$500.0 thousand from the law enforcement protection fund into the public safety volunteer retirement fund. According to DFA, if current revenues remain consistent, the law enforcement protection fund can sustain the impact of the transfer. However, the number of potential volunteers who are eligible for benefits is unknown. Therefore, no actuarial study has been developed to ascertain whether this annual transfer would provide a solvent and sustainable retirement fund for public safety volunteers as intended.

The law enforcement protection fund is currently funded from ten percent of all money received for fees, licenses, penalties and taxes from life, general casualty and title insurance business pursuant to the New Mexico Insurance Code [59A-1-1 NMSA 1978], except for money received from the health insurance premium surtax imposed by Subsection C of Section 59A-6-2 NMSA 1978, shall be paid monthly to the State Treasurer and credited to the fund.

The State Treasurer is limited in its investment options, reducing the potential return for fund

growth to meet future benefit obligations.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Public safety volunteers, as defined in HB 1109, will need to seek out other avenues to fund their retirement benefits.

POSSIBLE QUESTIONS

1. Is it timely to enact a new volunteer retirement act modeled on the Volunteer Retirement Act at the same time both HJM 32 and SJM 26 identify serious administrative problems with existing law and request appointment of an interim committee to consider amendments?

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